

Memorandum

Date : October 23, 2001

To : Steve Larson, Executive Director

From : California Energy Commission - Bob Therkelsen, Deputy Director
1516 Ninth Street Systems Assessment & Facilities Siting
Sacramento, CA 95814-5512

Subject : **ITEM FOR THE OCTOBER 31, 2001 BUSINESS MEETING: PETITION TO AMEND THE CALPINE GILROY PROJECT (01-EP-08) TO EXTEND THE SEPTEMBER 30, 2001 ON-LINE DATE**

COMMISSION ACTION REQUESTED

Staff recommends that the Energy Commission approve, without sanctions, the amendment petition filed by Calpine on September 25, 2001 to extend the on-line date for the Calpine Gilroy Project beyond the September 30, 2001 deadline specified in the Commission's Decision (01-EP-08). Calpine is requesting an extension of the on-line date to November 30, 2001.

PROJECT HISTORY AND SETTING

The Calpine Gilroy Project is a 135 MW emergency simple cycle, natural gas-fired power plant, located in the City of Gilroy. The project was certified by the Commission on May 15, 2001. Construction was initiated on June 6, 2001 and work has been conducted 7 days a week after initial ground clearing was completed. The Gilroy Project is comprised of three 45 MW gas turbine generators. Construction activities are essentially complete for the first two turbines, and will be complete within several weeks for the third turbine. Calpine has already completed first fire of the first turbine, and the first turbine is ready to synchronize to the electrical grid. The second turbine will first fire by October 27, 2001. Calpine is installing Selective Catalytic Reduction (SCR) air pollution control system components and related systems on the third turbine. All three turbines are scheduled to be complete and ready to operate continuously prior to transmission interconnection by PG&E, now scheduled for November 30, 2001, or earlier.

PROPOSED AMENDMENT

Calpine requires an extension of the September 30, 2001 on-line date for the Gilroy Project due to several unforeseen and uncontrollable events that delayed construction activities at the project site. These included the discovery of a human tooth and other

possible human remains and the nationwide disruption of air traffic and shipping resulting from the September 11 terrorist attacks. These actions resulted in the delay of several critical path activities required for the timely completion of the project.

STAFF ANALYSIS

The attached staff analysis is based on the Commission's Calpine Gilroy Project Decision, which states:

"Start of Operations: The Calpine Gilroy Project shall be on line by no later than September 30, 2001. If the Calpine Gilroy Project is not operational by September 30, 2001, the Energy Commission will conduct a hearing to determine the cause of the delay and consider what sanctions, if any, are appropriate. If the Energy Commission finds that the project owner failed to proceed with due diligence to have the Calpine Gilroy Project in operation by September 30, 2001, the Applicant shall forfeit its certification."

Based on the Commission's July 11, 2001 decision certifying the project, Staff's analysis focused on the cause of the delay and whether sanctions, including forfeiture of certification should Calpine be deemed to have failed to proceed with due diligence, to have the Calpine Gilroy Project in operation by September 30, 2001, are appropriate.

If the Commission finds that Calpine proceeded with due diligence, the Commission should approve Calpine's petition to amend the Decision to extend the on-line date, and must decide if sanctions are appropriate. If the Commission finds that the project owner failed to proceed with due diligence, the Commission should require Calpine to forfeit its certification in accordance with the Decision.

As stated in the attached analysis, notwithstanding the delays in initiating construction, completing sensitive bird surveys, and completing interconnection by PG&E, Calpine has consistently acted aggressively in trying to meet the September 30th deadline at considerable costs, and was faced with unforeseen delays associated with cultural finds and crime scene requirements at the site. Staff does not believe that sanctions are appropriate, and is of the opinion that Calpine proceeded with due diligence in an attempt to meet the September 30, 2001 on-line date. Therefore, staff recommends that Calpine's amendment petition to extend the on-line date of the Gilroy Project be approved and the Commission's Decision be amended as follows:

Start of Operations: The Calpine Gilroy Project shall be on line by no later than *November 30, 2001*. If the Calpine Gilroy Project is not operational by *November 30, 2001*, the Energy Commission will conduct a hearing to determine the cause of the delay and consider what sanctions, if any, are appropriate. If the Energy Commission finds that the project owner failed to proceed with due diligence to have the Calpine Gilroy Project in operation by *November 30, 2001*, the Applicant shall forfeit its certification.

PUBLIC REVIEW

The amendment petition has been docketed, and the attached staff analysis will be posted on the Commission's web page, emailed to the emergency peaker email list, and mailed to parties on the normal mailing list on October 23, 2001.

STAFF CONCLUSION AND RECOMMENDATION

As mandated by Title 20, section 1769(a)(3) of the California Code of Regulations, the Energy Commission may only approve project modifications if specific findings are made. Based on staff's review of the proposed amendment, and subject to the existing conditions of certification staff recommends approval of the proposed amendment, without sanctions, based on the following findings:

- A. There will be no new or additional unmitigated significant environmental impacts associated with the proposed changes.
- B. The facility will remain in compliance with all applicable laws, ordinances, regulations, and standards, subject to the provisions of Public Resources Code Section 25525.
- C. The change will be beneficial to the applicant and the public. In this case, the amendment will be of benefit to the project owner to provide completion of the project after the September 30, 2001 deadline. The extension will be of benefit to the public by providing additional power during peak electrical demand.
- D. The amendment to extend the on-line date is a result of Calpine's good faith effort to exercise due diligence in meeting the September 30, 2001 online date.

COMPLIANCE PROGRAM STAFF

Compliance Program Manager: Chuck Najarian (916) 654-4079
Compliance Project Manager: Christian Huntley (916) 651-8865
Compliance Staff Attorney: Dan Rios (916) 654-4253

BUSINESS MEETING PARTICIPANTS

Chuck Najarian, Dan Rios, and Christian Huntley